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CONCORD, N.H.

Mr. James J. Barry, Commissioner  
Department of Public Welfare  
State House Annex  
Concord, New Hampshire

Dear Mr. Barry:

This is in response to your request of August 9, for our opinion as to whether positions in the Manchester and Nashua Supervisory Unions are covered by both the local retirement system and the state employees' retirement system or by just the local system.

As you pointed out in your letter regularly employed office personnel of supervisory unions are eligible to participate in the state system, RSA 100:20. With respect to other employees eligibility for participation in the state employees' retirement system is conditioned upon the adoption of a resolution by the governing boards of the unions in question authorizing participation, RSA 100:29. Since no reference is made in your letter to such action by the governing boards we presume that no such election was made and in response to your request advise that with the exception of regularly employed office personnel the positions are not covered by the Employees' Retirement System.

With respect to the question of whether these positions are also covered by the local retirement systems of the respective cities it would appear advisable to consult with the city officials charged with administration of the local systems. I note that J. Francis Roche, City Solicitor of Manchester in an opinion dated August 6, (a copy of which was appended to your letter and which is returned herewith) ruled that the individuals in question are covered by Manchester's non-contributory pension plan. Since a determination of the applicability of the local plans to the individuals in question involves a construction of local ordinances it is believed that the ruling of the City Solicitor should be followed and it is respectfully suggested that a similar request be made of the Nashua City Solicitor.

Very truly yours,

Elmer T. Bourque  
Assistant Attorney General

ETD/T